APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,455	04/16/2004	Bulent Abali	YOR920030593US1 (17487)	1048

	EXAMINER
23389 7590 12/21/2006	EHNE, CHARLES
SCULLY SCOTT MURPHY & PRESSER, PC	

400 GARDEN CITY PLAZA	ART UNIT	PAPER NUMBER
SUITE 300	2113	
GARDEN CITY, NY 11530		

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/21/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<table>
<tr><td rowspan="2">Office Action Summary</td><td>Application No.
10/826,455</td><td>Applicant(s)
ABALI ET AL.</td></tr>
<tr><td>Examiner
Charles Ehne</td><td>Art Unit
2113</td><td></td></tr>
</table>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 April 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-30* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 7-30 are rejected under 35 U.S.C. 102(b) as being anticipated by

Stevens (6,145,088).

As to claim 1, Stevens discloses a system for diagnosing and repairing computer

systems comprising:

a first computing system executing an operating system of a first platform type

(column 7, lines 25-29);

an operating system of a second platform type adapted to be executed on said

first computing system upon failure of said operating system of said first platform type

(column 7, lines 43-48);

an application running under said operating system of said second platform type

for obtaining diagnostic information pertaining to said failed operating system (column 8,

lines 6-13);

a second computing system executing the same operating system of said first

platform type as said failed operating system (column 7, lines 13-21);

a means for communicating said diagnostic information obtained by said

application to said second computing system (column 7, lines 7-11 & column 14, lines

29-33);

a means at said second computing system for utilizing said diagnostic

information to diagnose the subject failed operating system of said first computing

system (column 17, lines 34-50); and

a means executing at said second computing system for generating repair

information for communication to the application running on said first computer system

to repair the failed operating system (Figure 14, column 14, lines 57-59).

As to claim 2, Stevens discloses the system as claimed in claim 1, wherein said

generated repair information includes at least one new file necessary to the repair, and,

an instruction for copying said at least one new file back to said first computing system

(column 20, lines 51-62 & column 21, lines 55-59).

As to claim 3, Stevens discloses the system as claimed in claim 1, wherein said

generated repair information includes at least one modified file necessary to the repair,

and, an instruction for overwriting existing data with modified file data at said first

computing system (column 23, lines 9-15).

As to claim 4, Stevens discloses the system as claimed in claim 1, wherein said

diagnostic information pertaining to said failed operating system comprises relevant file

system configuration information including at least one from the group comprising:

registry files, system files, system settings, error files, error logs, and other system

configuration files of said failed operating system (column 13, lines 21-26).

As to claim 7, Stevens discloses the system as claimed in claim 1, wherein said communication means includes a network connection (Figure 1, column 7, lines 7-10).

As to claim 8, Stevens discloses the system as claimed in claim 1, wherein said application running under said operating system of said second platform type is enabled to read data from and write data to the files associated with said failed operating system (column 7, lines 52-55).

As to claim 9, Stevens discloses the system as claimed in claim 4, wherein said second computing system comprises operating system interface means for enabling the examination of the diagnostic information to determine problem causes and corrections to said failed operating system on said first computing system (column 22, lines 33-36).

As to claim 10, Stevens discloses a computer system diagnostic and repair service for reviving a failed operating system executing on a remote computing system comprising:

at least one proxy computing system adapted to execute applications under operating systems of varying platform types (column 6, lines 21-28 & column columns 5-6, lines 64-2);

a means located at said at least one proxy computing system for receiving diagnostic information obtained from a diagnostic application executing on said remote computing system having a failed operating system to be revived, said diagnostic information relating to said failed operating system being received at a proxy computing device executing the same operating system platform as said failed operating system

platform (column 7, lines 43-48 & column 8, lines 6-13 & column 7, lines 13-21 &

column 14, lines 29-33);

a means located at said at least one proxy computing system for utilizing said

received diagnostic information to diagnose the failed operating system to be revived at

said remote computing system (column 7, lines 7-11 & column 14, lines 29-33); and

a means located at said at least one proxy computing system for generating

repair information adapted for communication back to said diagnostic application

running on said remote computer system having said failed operating system, wherein

said repair information is utilized to enable revival of said failed operating system at said

remote computing system (column 13, lines 21-26 & column 7, lines 44-48).

As to claim 11, Stevens discloses the computer system diagnostic and repair

service as claimed in claim 10, wherein said diagnostic application executes at said

remote computing system under a second operating system of a second platform type

having been previously booted upon failure of a primary operating system (column 7,

lines 44-48).

As to claim 12, Stevens discloses the computer system diagnostic and repair

service as claimed in claim 10, wherein said diagnostic information pertaining to said

failed operating system comprises relevant file system configuration information

including at least one from the group comprising: registry files, system files, system

settings, error files, error logs, and other system configuration files of said failed

operating system (column 13, lines 21-26).

As to claim 13, Stevens discloses the computer system diagnostic and repair service as claimed in claim 10, wherein said generated repair information comprises: at least one new file necessary to the repair, and, an instruction for copying said at least one new file back to said remote computing system; or, at least one modified file necessary to the repair, and, an instruction for overwriting existing data with said modified file data at said remote computing system (column 13, lines 21-26 & column 23, lines 9-15).

As to claim 14, Stevens discloses the computer system diagnostic and repair service as claimed in claim 10, further comprising a network communication means for enabling communication of diagnostic information from said remote computing system to said proxy computing system and for enabling communication of repair information from proxy computing system to said remote computing system (Figure 1, column 7, lines 7-10).

As to claim 15, Stevens discloses a method for diagnosing and repairing a first computing system executing an operating system of a first platform type and subject to a failure diagnosis, said method comprising steps of:

providing an operating system of a second platform type adapted to be executed on said first computing system upon failure of said operating system of said first platform type (column 7, lines 43-48);

executing an application under said operating system of said second platform type for obtaining diagnostic information pertaining to said failed operating system on said first computing system (column 8, lines 6-13);

providing a second computing system executing the same operating system of

said first platform type as said failed operating system executed on said first computing

system (column 7, lines 13-21);

communicating said diagnostic information obtained by said application to said

second computing system (column 7, lines 7-11 & column 14, lines 29-33);

utilizing said diagnostic information to diagnose the subject failed operating

system of said first computing system (column 17, lines 34-50); and

generating repair information at said second computing system and

communicating said repair information to the application running on said first computer

system to repair the failed operating system (Figure 14, column 14, lines 57-59).

As to claim 16, Stevens discloses the method as claimed in claim 15, wherein

said step of generating repair information includes generating at least one new file

necessary to the repair, and, an instruction for copying said at least one new file back to

said first computing system (column 20, lines 51-62 & column 21, lines 55-59).

As to claim 17, Stevens discloses the method as claimed in claim 15, wherein

said step of generating repair information includes generating at least one modified file

necessary to the repair, and, an instruction for overwriting existing data with modified

file data at said first computing system (column 23, lines 9-15).

As to claim 18, Stevens discloses the method as claimed in claim 15, wherein

said step of obtaining diagnostic information pertaining to said failed operating system

includes reading relevant file system configuration information including at least one

from the group comprising: registry files, system files, system settings, error files, error

logs, and other system configuration files of said failed operating system (column 13, lines 21-26).

As to claim 19, Stevens discloses the method as claimed in claim 15, wherein said step of generating repair information includes the step of providing operating system interfaces for enabling the examination of the diagnostic information to determine problem causes and corrections to said failed operating system on said first computing system (column 22, lines 33-36).

As to claim 20, Stevens discloses a method for reviving a failed operating system executing on a remote computing system, said method comprising the steps of:

a) providing a proxy computing system adapted to execute applications under at least one operating system of varying platform types (column 6, lines 21-28 & column columns 5-6, lines 64-2);

b) receiving diagnostic information obtained from a diagnostic application executing on said remote computing system having a failed operating system to be revived, said diagnostic information relating to said failed operating system being received at a proxy computing system executing the same operating system platform as said failed operating system platform (column 7, lines 43-48 & column 8, lines 6-13 & column 7, lines 13-21 & column 14, lines 29-33);

c) utilizing said received diagnostic information at said proxy computing system for diagnosing the failed operating system to be revived at said remote computing system (column 7, lines 7-11 & column 14, lines 29-33);

d) generating repair information at said proxy computing system (Figure 14, column 14, lines 57-59);

e) communicating said generated repair information back to said diagnostic application running on said remote computer system having said failed operating system (column 7, lines 7-11 & column 14, lines 29-33); and,

f) utilizing said repair information to enable revival of said failed operating system at said remote computing system (column 8, lines 30-36).

As to claim 21, Stevens discloses the method for reviving a failed operating system as claimed in claim 20, further comprising the steps of: executing a second operating system of a second platform type upon failure of a primary operating system; and, executing said diagnostic application at said remote computing system under said second operating system (column 7, lines 43-48).

As to claim 22, Stevens discloses the method for reviving a failed operating system as claimed in claim 20, wherein said diagnostic information pertaining to said failed operating system comprises relevant file system configuration information including at least one from the group comprising: registry files, system files, system settings, error files, error logs, and other system configuration files of said failed operating system (column 13, lines 21-26).

As to claim 23, Stevens discloses the method for reviving a failed operating system as claimed in claim 20, further wherein said generated repair information comprises: at least one new file necessary to the repair, and, an instruction for copying said at least one new file back to said remote computing system; or, at least one

modified file necessary to the repair, and, an instruction for overwriting existing data with said modified file data at said remote computing system (column 13, lines 21-26 & column 23, lines 9-15).

As to claim 24, Stevens discloses the method for reviving a failed operating system as claimed in claim 20, further comprising the step of implementing a network communication means for enabling receipt of said diagnostic information from said remote computing system and, for enabling communication of repair information from said proxy computing system to said remote computing system (Figure 1, column 7, lines 7-10).

As to claim 25, Stevens discloses a program storage device readable by a machine, tangibly embodying a program of instructions executable by the machine to perform method steps for diagnosing and repairing a first computing system executing an operating system of a first platform type and subject to a failure diagnosis, said method steps comprising:

providing an operating system of a second platform type adapted to be executed on said first computing system upon failure of said operating system of said first platform type (column 7, lines 43-48);

executing an application under said operating system of said second platform type for obtaining diagnostic information pertaining to said failed operating system on said first computing system (column 8, lines 6-13);

providing a second computing system executing the same operating system of said first platform type as said failed operating system executed on said first computing system (column 7, lines 13-21);

communicating said diagnostic information obtained by said application to said second computing system (column 7, lines 7-11 & column 14, lines 29-33);

utilizing said diagnostic information to diagnose the subject failed operating system of said first computing system (column 17, lines 34-50); and

generating repair information at said second computing system and communicating said repair information to the application running on said first computer system to repair the failed operating system (Figure 14, column 14, lines 57-59).

As to claim 26, Stevens discloses the program storage device readable by a machine as claimed in claim 25, wherein said step of generating repair information includes generating at least one new file necessary to the repair, and, an instruction for copying said at least one new file back to said first computing system (column 20, lines 51-62 & column 21, lines 55-59).

As to claim 27, Stevens discloses the program storage device readable by a machine as claimed in claim 25, wherein said step of generating repair information includes generating at least one modified file necessary to the repair, and, an instruction for overwriting existing data with modified file data at said first computing system (column 23, lines 9-15).

As to claim 28, Stevens discloses the program storage device readable by a machine as claimed in claim 25, wherein said step of obtaining diagnostic information

pertaining to said failed operating system includes reading relevant file system configuration information including at least one from the group comprising: registry files, system files, system settings, error files, error logs, and other system configuration files of said failed operating system (column 13, lines 21-26).

As to claim 29, Stevens discloses the program storage device readable by a machine as claimed in claim 25, wherein said step of generating repair information includes the step of providing operating system interfaces for enabling the examination of the diagnostic information to determine problem causes and corrections to said failed operating system on said first computing system (column 22, lines 33-36).

As to claim 30, Stevens discloses a program storage device readable by a machine, tangibly embodying a program of instructions executable by the machine to perform method steps for reviving a failed operating system executing on a remote computing system, said method steps comprising:

a) providing a proxy computing system adapted to execute applications under at least one operating system of varying platform types (column 6, lines 21-28 & column columns 5-6, lines 64-2);

b) receiving diagnostic information obtained from a diagnostic application executing on said remote computing system having a failed operating system to be revived, said diagnostic information relating to said failed operating system being received at a proxy computing system executing the same operating system platform as said failed operating system platform (column 7, lines 43-48 & column 8, lines 6-13 & column 7, lines 13-21 & column 14, lines 29-33);

c) utilizing said received diagnostic information at said proxy computing system

for diagnosing the failed operating system to be revived at said remote computing

system (column 7, lines 7-11 & column 14, lines 29-33);

d) generating repair information at said proxy computing system (Figure 14,

column 14, lines 57-59);

e) communicating said generated repair information back to said diagnostic

application running on said remote computer system having said failed operating

system (column 7, lines 7-11 & column 14, lines 29-33); and,

f) utilizing said repair information to enable revival of said failed operating system

at said remote computing system (column 8, lines 30-36).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating
     obviousness or nonobviousness.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Stevens taken in view of Rive (6,281,894).

As to claim 5, Stevens discloses a system for diagnosing and repairing computer

systems comprising: a first computing system executing an operating system of a first

platform type (column 7, lines 25-29); and an operating system of a second platform

type adapted to be executed on said first computing system upon failure of said

operating system of said first platform type (column 7, lines 43-48). Stevens fails to

disclose wherein said first computing system comprises a partitioned hard disk drive

wherein said operating system of said first and second types executes on separate

partitions.

Rive discloses a method of configuring a storage device accessible by a

computer system to facilitate the maintenance and verification of the integrity and

operation of the computer system (column 1, lines 14-20). Rive does disclose wherein

said first computing system comprises a partitioned hard disk drive wherein said

operating system of said first and second types executes on separate partitions (column

5, lines 28-31).

It would have been obvious to one of ordinary skill in this art at the time of

invention by applicant implement Stevens' different operating systems with Rive's

partitioned hard disk drive wherein the operating system of said first and second types

executes on separate partitions. A person of ordinary skill in the art would have been

motivated to make the modification because the content on the first partition is protected

from the user modification when the first partition is active and the content of the second

partition is available for user modification when the second partition is active (Rive: column 2, lines 47-50).

As to claim 6, Rive discloses the system as claimed in claim 5, wherein said operating system of a first platform type is a Windows-based operating system, and said application executing under said operating system of said second platform type is Linux-based (column 6, lines 14-26).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Ehne whose telephone number is (571)-272-2471. The examiner can normally be reached on Monday-Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571)-272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.